

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

JEROME HUCKEBA,

Movant,

vs.

UNITED STATES OF AMERICA.

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1:09-cv-0249-SEB-DML

Entry Discussing Motion for Relief Pursuant to 28 U.S.C. § 2255

A motion pursuant to 28 U.S.C. § 2255 is the presumptive means by which a federal prisoner can challenge his conviction or sentence. See *Davis v. United States*, 417 U.S. 333, 343 (1974). Defendant Jerome Huckeba, having been convicted of identity theft in violation of 18 U.S.C. § 1028(a)(7), entered a plea of guilty in No. 1:07-cr-160-01-SEB-KPF whereby he waived what would otherwise have been his rights to file both file an appeal from the disposition in the case and to file such a motion. The court accepted that guilty plea on February 19, 2008, after finding it validly entered, and the waiver provision now bars Huckeba's effort to set aside his conviction based on his claim of ineffective assistance of counsel.

"[A] waiver stands or falls with the plea bargain of which it is a part." *Nunez v. United States*, 546 F.3d 450, 454 (7th Cir. 2008)(citing *United States v. Wenger*, 58 F.3d 280 (7th Cir. 1995)). The waiver provision in this instance is valid and enforceable. Huckeba does not argue otherwise. Because of this, Huckeba's motion for relief pursuant to 28 U.S.C. § 2255 must be **denied**. Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 12/31/2009



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana